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**REMARKS**

Claims 77-81 remain pending in the application. All existing grounds of rejection again have been withdrawn; the first action rejection of claims 77 and 79 under 35 U.S.C. § 102 as being anticipated by Munk, U.S. Patent No. 4,667,465 (see First Office action dated February 7, 2003) has been reinstated; and the rejections of claims 77 and 79 as being anticipated by Foster-Pegg Article, and of claims 77-80 as being anticipated by Bronicki et al., UK 2280224, from the second Office action (see Second Office action dated June 9, 2003 at p. 7) also have been reinstated. The reinstated grounds of rejection are respectfully traversed.

**Rejection over Munk**

The reinstatement of previously withdrawn rejection of claims 77 and 79 as being anticipated by Munk is respectfully traversed. The Examiner's attention is directed to the Declaration of Inventor William L. Kopko filed under 37 CFR § 1.132 dated May 5, 2003. Applicable case law holds that in order to anticipate a claim, a single prior art reference must disclose each and every feature of the claim. In this case, Munk fails to disclose all the limitations of independent claim 77.

Among other things, Munk fails to teach or suggest the supercharging subsystem of independent claim 77. The supercharging subsystem as set forth in claim 77 comprises at least one supercharging fan *which increases the pressure of the gas turbine subsystem input airstream*, whereby power output of the turbine and hence electrical output of the electrical generator may be increased (emphasis added). In other words, the capacity of gas turbine power plants at high ambient temperatures is improved by reducing air temperature downstream of the supercharging fan and providing an inlet pressure to the gas turbine that is substantially above atmospheric pressure. The Patent Office analogizes the blower 160 of Munk to Applicant's supercharging subsystem. However, the blower 160, as described in column 3, lines 64-67, merely provides a forced draft of air through a chamber which includes a fogging

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subsystem 200, an input duct 115, and an input opening of a compressor 110. There is no teaching or suggestion in Munk that a positive air pressure is supplied to the turbine subsystem. In fact, Munk is not concerned with improving turbine capacity, and therefore, there is no reason that increased air pressure be supplied to the turbine system. Munk's primary concern is reducing oxides of nitrogen (NOx) or NOx emissions. See column 2, lines 64-68. Since Munk fails to teach Applicant's "supercharging subsystem," Munk cannot anticipate claim 77. Thus, the rejection of claim 77 should be withdrawn.

In support of the above arguments, Mr. Kopko explains in his Declaration that the purpose of Munk's blower 160 is to overcome extra pressure drops from the heater 190 and the fogging subsystem 200. The blower 160 is not analogous to a supercharging fan which supplies an air pressure to a turbine that is substantially above atmospheric pressure. Thus, blower 160 does not increase the pressure of the gas turbine subsystem input airstream whereby power output of the turbine and hence electrical output of the electrical generator may be increased, as set forth in claim 77. For at least this reason, Munk cannot anticipate or suggest the invention of claim 77.

Dependent claim 79 depends from independent claim 77, and is submitted to be patentable over the Munk reference for at least the same reasons set forth above in connection with claim 77.

#### **Rejection over Foster-Pegg**

The reinstatement of previously withdrawn rejection of claims 77 and 79 as being anticipated by Foster-Pegg also is respectfully traversed. As previously explained, the Foster-Pegg article is already described in the specification. Foster-Pegg fails to disclose or suggest a gas turbine system having a supercharging subsystem and at least one fogger located upstream of a gas turbine subsystem input airstream, wherein the gas turbine system is operated to provide maximum generator design rated output at summer-peaking temperatures as set forth in sole independent claim 77.

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As shown in Fig. 1, gas turbines and associated generators are rated based on turbine capacity at 40 to 50 degrees F inlet air temperature, such that the generators are designed (*i.e.*, sized) to have maximum output at 59 degrees F. As ambient temperature rises to summer-peaking conditions, the output of the system decreases. According to the present invention, a combination of a supercharging subsystem and a fogger are provided to a gas turbine system to enable the system to achieve maximum power output at summer-peaking conditions, see Fig. 6 and pp. 14-15 of the specification.

Foster-Pegg fails to teach such operation. Foster-Pegg may disclose the use of inlet air cooling to increase power output, but the increased power output would simply raise the curve shown in Fig. 1, and not change the shape of the curve, as shown in Fig. 6 for example, according to the present invention. As a result, Foster-Pegg is not able to increase the power output from a gas turbine system at high ambient temperatures other than by simply increasing the size of the components of the system.

#### Rejection over Bronicki et al.

The reinstatement of previously withdrawn rejection of claims 77-80 as being anticipated by Bronicki et al. also is respectfully traversed. Bronicki et al. discloses in Fig. 8 a gas turbine power plant including a direct contact heat exchanger 222, a precompressor device 223, and an evaporative cooler 224 upstream of a gas turbine unit 220. Bronicki explains that the heat exchanger 222 produces cooled ambient air, the precompressor device 223 compresses the cooled ambient air to produce pressurized air that is warmer than the ambient air, and the evaporative cooler 224 cools the pressurized air to produce cooled ambient air at ambient temperature and relative humidity. In contrast, claim 77 sets forth that the fogger humidifies and cools the input airstream before it is provided to the compressor. As such, Bronicki fails to anticipate the invention of claim 77.

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### Double-Patenting Rejection

Applicant files herewith a Terminal Disclaimer to overcome this ground of rejection.

### Response to Arguments

The Office action states that the functional and operational claim limitations have not structurally distinguished the claims over the prior art. However, it is a well-established principle of patent law that claims need not set forth structural differences over the prior art in order to be patentable. Functional language also can patentably distinguish a claim over the prior art, and cannot simply be ignored. See Pac-Tec, Inc. v. Amerace Corp., 903 F.2d 796, 14 USPQ2d 1871 (Fed. Cir. 1990). In determining whether a patent claim is anticipated by the prior art, it is improper to disregard limitations that include "adapted to," "whereby," and "thereby." Id. In particular, "wherein" clauses such as present in pending claim 77 explicitly have been held to limit a patent claim where such clauses do not merely state the inherent result of the other limitations of the claim. See Griffin v. Bertina, 285 F.3d 1029, 62 USPQ2d 1431 (Fed. Cir. 2002).

Consequently it is improper for the Examiner to simply ignore the functional claim language as being directed to an intended use or desired result, where, as in the present application, the functional language does not merely state the inherent result of the other claim limitations.

Moreover, claim 77 has been amended to recite that the supercharging pressure is increased as ambient temperature increases, up to a predefined maximum. Support for this amendment is found in Fig. 9 and accompanying explanation at pages 21-22 of the specification.

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**Conclusion**

In view of the foregoing amendment and remarks, further and favorable reconsideration of this application, withdrawal of all outstanding grounds of rejection, and the issuance of a Notice of Allowance are earnestly solicited.

<b>RESPECTFULLY SUBMITTED,</b>					
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